

**IN THE DRAWINGS:**

Please substitute the attached replacement drawing sheet for the corresponding original drawing sheet. The new drawing sheet includes changes to Figure 2.

In Figure 2, Low-pass filter 230 has been added, and reference numbers 210, 220, and 230 have been added to conform the drawing to the description at paragraph 0034. No new matter has been added.

**Attachments:**

- 1 replacement sheet
- 1 annotated sheet showing changes

## REMARKS

The Applicant appreciates the time taken by the Examiner to review the Applicant's present application. This application has been carefully reviewed in light of the Examiner's comments, including the Office Action mailed May 14, 2008. The Applicant respectfully requests reconsideration and favorable action in this case.

### Objections to drawings

The Examiner objected to the drawings because they did not include reference numbers 210, 220 and 230, as mentioned in the description (e.g., at paragraphs 0034 and 0041.) The Applicant has amended Figure 2 to include these reference numbers and thereby conform the figure to the specification. No new matter has been added.

The Examiner also objected to the drawings because they did not show a third data stream and third counter as recited in claims 23 and 32. The Applicant has canceled claims 23 and 32 and therefore believes the Examiner's objection is moot.

For these reasons, the Applicant believes the Examiner's objections to the drawings have been overcome.

### Objections to claims

The Examiner objected to claims 22-27 and 29-38 because they improperly recite several terms. The Applicant has amended the claims to correct the recitation of these terms as suggested by the Examiner and consequently believes the Examiner's objections to the claims have been overcome.

### Summary of rejections and amendments

The Examiner previously rejected claims 23, 28 and 32 under 35 U.S.C. §112, claims 22, 26, 31, 35 and 37 under 35 U.S.C. §102, and claims 23-25, 27-30, 32-34, 36 and 38 under 35 U.S.C. §103. The Applicant has amended claims 22, 23, 28, 31 and 32 and canceled claims 23 and 32. Claims 2, 12-13, 22, 24-31 and 33-38 are therefore pending in the application.

### Rejections under 35 U.S.C. §112

Claims 23 and 32 are rejected under 35 U.S.C. §112, first paragraph, as failing to comply with the written description requirement. The Applicant has canceled these claims, the rejection is moot.

Claim 28 is rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which the Applicant regards as the invention. Specifically, the Examiner pointed out that claim 28 depended from claim 1, which had been canceled. The Applicant has amended claim 28 to depend from claim 2, so the Examiner's objection is believed to have been overcome.

### Rejections under 35 U.S.C. §102

Claims 22, 26, 31, 35 and 37 are rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent Application Pub. No. 2001/0033583 ("Rabenko.") The Applicant respectfully traverses this rejection.

As to claims 22 and 31, the Examiner states that Rabenko teaches the limitations of the claims, including receiving first and second input digital data streams, counting the number of clock cycles in sample periods of the first and second input digital data streams, estimating the sample rate of the first input digital data stream, and calculating the sample rate of the second input digital data stream by multiplying the sample rate of the first stream by the ratio of the clock cycles in the sample periods of the respective data streams. The Examiner indicates that these limitations are taught by Rabenko at paragraphs 0154 and 0157, and in Figure 17. The Applicant respectfully disagrees.

The cited portions of Rabenko disclose a voice synchronizer that is designed to adjust the sample rate of a single data stream (paragraph 0154.) Figure 17 shows two counters (537, 539) that are clocked by a reference clock signal (533,) but these counters do not receive input digital data streams as recited in the claims. Instead of a digital data stream, each counter receives another clock signal. In the upstream case described in paragraph 0154, counter A (537) receives an ADC clock signal (536) and counter B (539) receives a TRC clock signal (538.) In the downstream case described in paragraph 0157, counter A (537) receives a frame clock signal (540) and counter B (539) receives a DAC clock signal (541.) In either case, the ratio of the counts in counters A and B is used to upsample or downsample a data stream that is conveyed to a sample-rate tracker (534) on a separate line (534a.)

Thus, the disclosure of Rabenko is different from the limitations recited in the claims in several ways, including the fact that the counters do not receive input digital data streams or count clock cycles in sample periods of such data streams, the fact that the sample rate of this single digital data stream is not estimated (it is only modified -- upsampled or downsampled,) and the fact that only a single digital data stream is present in Rabenko's system, so that it is not possible to estimate the sample rate of a second input digital data stream, particularly by multiplying a sample rate of a first data stream by a ratio of the counters as recited in the claims. (The Applicant notes that these distinctions between the claims and Rabenko have been discussed with the Examiner, and the Examiner agrees that Rabenko fails to teach these limitations.)

For these reasons, the Applicant respectfully submits that Rabenko fails to anticipate claims 22 and 31. Because claims 26, 35 and 37 depend from and include the limitations of either claim 22 or claim 31, they include the limitations of the respective independent claim and are distinguished from Rabenko in the same manner as claims 22 and 31. The Applicant therefore respectfully requests that the rejection of claims 22, 26, 31, 35 and 37 under 35 U.S.C. §102(b) be withdrawn and the claims allowed.

#### Rejections under 35 U.S.C. §103

The Examiner rejected claims 23 and 32 under 35 U.S.C. §103(a) as being unpatentable over Rabenko, claims 24, 25 and 36 as being unpatentable over Rabenko in view of U.S. Patent No. 5,621,805 ("Loh,") claims 27 and 33 as being unpatentable over Rabenko in view of U.S. Patent No. 4,641,326 ("Tomisawa,") claims 29 and 34 as being unpatentable over Rabenko in view of U.S. Patent No. 5,367,162 ("Holland,") and claims 30 and 38 as being unpatentable over Rabenko in view of U.S. Patent No. 6,665,338 ("Midya.") The Applicant respectfully traverses these rejections.

All of the claims rejected under 35 U.S.C. §103 depend from and include the limitations of independent claims 22 or 31. Accordingly, the rejections under 35 U.S.C. §103 are based on Rabenko, as applied to claims 22 and 31. However, as explained above, Rabenko fails to teach all of the limitations of the independent claims and therefore fails to teach these limitations as they are incorporated into the dependent claims.

The Applicant notes that the Examiner does not contend that the limitations discussed above with respect to claims 22 and 31 are taught by any of the secondary prior art references

cited in the office action. The Applicant has reviewed these references and does not believe any of these references teach the claim limitations that are missing in Rabenko. The Applicant has reviewed the Loh reference in particular at the suggestion of the Examiner and, although Loh discloses the use of multiple data rate converters (742) that receive data streams from multiple data sources, each of the data rate converters operates independently of the others. Thus, even if this reference is combined with Rabenko, the combination fails to teach the estimation of a first sample rate and the calculation of a second sample rate based on the first sample rate and a ratio of counter values as recited in the claims.

For at least these reasons, the Applicant submits that the cited prior art references, alone or in combination, fail to teach all of the limitations of the claims and therefore fail to support a rejection of the claims under 35 U.S.C. §103. The Applicant therefore respectfully request that the rejections be withdrawn and the claims allowed.

#### Examiner interview

The undersigned conducted a telephone interview with the Examiner on August 13, 2008, in which the disclosure of the Rabenko reference was discussed in relation to the limitations of independent claims 22 and 31. The undersigned explained that Rabenko fails to teach the limitations of these claims as discussed in more detail above. The Examiner agreed with this reasoning and agreed that Rabenko fails to anticipate the claims.

#### Allowable subject matter

The Examiner allowed claims 2, 12 and 13.

#### Conclusion

The Applicant has now made an earnest attempt to place this case in condition for allowance. Other than as explicitly set forth above, this reply does not include an acquiescence to statements, assertions, assumptions, conclusions, or any combination thereof in the Office Action.

For at least the foregoing reasons, the Applicant respectfully requests allowance of all claims pending in the application. The Examiner is invited to telephone the undersigned at the number listed below for prompt action in the event any issues remain.

If any extensions of time are necessary to prevent the above referenced application from becoming abandoned, the Applicant hereby petitions for such extensions. If any fees are inadvertently omitted, or if any additional fees are required, or if any amounts have been overpaid, please appropriately charge or credit those fees to Deposit Account No. 50-3085 of the Law Offices of Mark L. Berrier.

Respectfully submitted,



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